

Before the
Federal Communications Commission
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matters of)
)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)
)
and)
)
Implementation of the Local Competition)
Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 98-147

CC Docket No. 96-98

**PETITION OF AT&T CORP. FOR EXPEDITED CLARIFICATION
OR, IN THE ALTERNATIVE, FOR RECONSIDERATION**

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Pursuant to section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, AT&T Corp. ("AT&T") petitions the Commission for clarification, or alternatively reconsideration, of one aspect of its Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, FCC 99-355, released December 9, 1999 ("Line Sharing Order" or "Order") and published in 65 Fed. Reg. 1331 (January 10, 2000).

INTRODUCTION AND SUMMARY

The Line Sharing Order amends the Commission's rules to require incumbent local exchange carriers ("ILECs") to provide, as a network element, access to the high-frequency portion of the local loop to a requesting competitive local exchange carrier ("CLEC"), on loops that carry the ILEC's basic telephone service. The Commission reasoned that enabling such "line sharing" would accelerate the ability of residential and small business customers to access competitive data services (such as digital subscriber line ("xDSL")-based services)¹ from their

¹ xDSL technologies add functionality to both ends of a local loop (or subloop) to create high-speed digital transmission channels. Certain xDSL technologies, such as asymmetric digital subscriber line ("ADSL"), are uniquely capable of supporting competitors' efforts to provide voice and high-speed Internet access efficiently to the mass market of consumers over the existing wireline loop infrastructure.

choice of providers by placing competitive data service providers on a more equal footing with ILECs.²

The Line Sharing Order thus fashioned a *partial* solution to the competitive anomaly that results from the fact that only ILECs are able to exploit the efficiencies of combining voice and xDSL service over the same loop. The UNE Remand Order created another partial solution to the same problem by specifying new rules that enable CLECs to obtain access to xDSL-capable loops.³ Both orders were intended to foster xDSL competition and to expand consumer choice.

Despite the obvious intention of these rules, some ILECs have sought to interpret the market-opening requirements of the Line Sharing Order to have precisely the opposite effect insofar as they apply to CLECs that use combinations of networks elements to provide voice service. Specifically, they have sought to use language in that Order to constrict such CLECs' ability to make xDSL capabilities available to their customers. The Commission should act promptly to end such anti-competitive behavior by clarifying that nothing in the Line Sharing Order precludes CLECs from combining xDSL with the end-to-end combination of network elements (commonly referred to as the UNE Platform or UNE-P).

This clarification is necessary because ILECs have invoked language of the Line Sharing Order to undermine the practical use of the UNE-Platform. The ILECs' latest tactics work as follows. On the one hand, when a customer who receives combined voice and xDSL service over a single loop from the ILEC switches to AT&T's UNE-P-based voice service, the ILEC threatens to terminate its xDSL service, unless the customer drops AT&T's voice service and switches back to the ILEC. On the other hand, when AT&T seeks to add xDSL capability to its

² Federal Communications Commission Action to Accelerate Availability of Advanced Telecommunications Services For Residential and Small Business Consumers, FCC Press Release, CC Docket No. 98-147, Report No. 99-54 (rel. Nov. 18, 1999).

³ See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 at ¶¶ 190-195 (rel. Nov. 5, 1999)(“UNE Remand Order”).

customer's UNE-P-based voice service, the ILEC states there are no methods and procedures to enable AT&T to do so.

Unless the Commission quickly and forcefully clarifies the Line Sharing Order, AT&T's competitive efforts will be significantly and unfairly hampered. As the Commission knows, many ILECs are deploying xDSL services at breakneck speed. If ILECs are permitted to hold AT&T and other competitors back from offering xDSL services in combination with voice services, the inevitable result will be to diminish competition in the markets for data services, for voice services, and for bundled packages of services. Accordingly, expedited treatment on this matter is warranted.

I. CLARIFICATION OF THE LINE SHARING ORDER IS NECESSARY TO PREVENT UNINTENDED DISRUPTION OF COMPETITION FOR VOICE SERVICES AND BUNDLED SERVICE PACKAGES

Although competition in xDSL services is, of course, important in its own right, the strategic significance of xDSL is not confined to the potential for various carriers to deliver broadband service as a stand-alone telecommunications offering. As the Line Sharing Order recognizes, xDSL services constitute a crucial segment of the market for local telecommunications services, and, because of their importance, the manner in which they are deployed will also affect the markets for traditional telecommunications.⁴

Advanced data capabilities will have a major impact on the marketing of "bundled" packages of telecommunications services, including traditional local and long distance voice service plans. Many carriers, including Bell Atlantic, SBC, and U S WEST, have already recognized the competitive advantages of offering "one-stop shopping" to consumers and are using the full capacity of their copper loops by employing xDSL technologies that enable them

⁴ See, e.g., Line Sharing Order ¶¶ 33, 39-41 (recognizing that there is a growing demand by residential and small business customers for xDSL-based and similar data services, and that it is most economical for such customers to receive data service over the same loop that they use to receive voice service).

to provide both voice and data services to a huge embedded base of voice customers.⁵ The overall competitiveness of the telecommunications market will be irreparably impaired if ILECs are the only carriers that can offer a complete package of local, xDSL, and (upon FCC approval of an ILEC's section 271 application) long distance services.⁶

The growing importance of advanced services creates new opportunities for competition, but it also creates new opportunities for ILECs to hinder their rivals and restrict consumer choice. With the explosive growth of the Internet, e-commerce, and consumer demand for ready access to information and entertainment, the number and types of customers who desire high-speed data services have grown dramatically. New entrants in the local telephone business cannot hope to achieve broad success over the long term unless they can efficiently provide high-speed digital data transmission capabilities in addition to traditional voice telephony.

AT&T's efforts to provide consumers and businesses throughout the United States with a competitive choice for data and voice services are consistent with the goals the Commission has stated in numerous proceedings implementing the Telecommunications Act. AT&T's aim is to compete ubiquitously, offering local, long distance and data services to the full range of consumers to whom AT&T's long distance services are currently available. As the Commission well knows, AT&T is investing billions of dollars to acquire cable facilities and to upgrade those facilities to support two-way communications, but this process takes time and is extremely

⁵ See, e.g., SBC Press Release, "SBC Reports Strong Fourth-Quarter, Full-Year Results," (Jan. 25, 2000); Ivan Seidenberg, "Broadband Changes Everything," speech delivered at Fall Internet World Conference (Oct. 7, 1999)(available at <http://ba.com/speeches/1999/Oct>); US WEST Press Release, "U S WEST 4th Quarter Earnings Rise 6.4% on Strong New Product Growth," (Jan. 26, 2000)("[W]e have aggressively won about 85 percent of the DSL customers in our region. And the way we've begun bundling products has improved customer retention and satisfaction, driven increased per-customer revenue, and helped improve product penetration").

⁶ See Goldman Sachs Investment Research Report, "The Race to Build the Broadband Kingdom," dated August 12, 1999 at 26 ("In order to make their services 'sticky,' DSL carriers must have the ability to bundle services to offer the cost-cutting advantages of having all products -- data, voice, and Internet access -- over a single copper line. A carrier's success will ultimately be determined by its ability to deliver local, long distance, and Internet access over the same pipe").

capital intensive.⁷ AT&T is also testing a wireless local loop technology, but economic, topographical, and customer density factors limit its role as a substitute for UNE-P in the immediate future.

AT&T is prepared to compete, on the merits, to offer “one-stop shopping” solutions to meet customers’ demand for bundled services. In the near term, UNE-P is a critical component of AT&T’s plans to provide residential customers a full array of competitively priced, high-quality services over a single loop. Thus, regardless of whether AT&T self-deploys xDSL assets or makes this service available to customers through arrangements with third parties, AT&T’s efforts to compete will be significantly constrained unless ILECs provide nondiscriminatory procedures that enable AT&T, or a third party, to add, modify or remove xDSL capabilities to a new or already operating UNE-P line or to migrate customers who already subscribe to xDSL to UNE-P without loss of the data service.⁸ Given that no such procedures are currently in existence, AT&T’s ability to compete will be thwarted if an ILEC is not obligated to promptly provide operational support for xDSL capabilities on UNE-P while simultaneously denying or withdrawing its xDSL service to customers who choose AT&T (or another carrier using UNE-P) as their voice carrier.

ILECs such as SBC are currently using their monopoly control over the local loop to obstruct AT&T’s customers from obtaining the full range of services they desire over such loops

⁷ AT&T’s merger with MediaOne will accelerate its cable telephony deployment, but widespread availability of that technology is a few years away. Moreover, the AT&T/MediaOne combination, once approved by the Commission, will reach fewer than 30 percent of all U.S. multi-channel video programming households, or an even smaller percentage of all U.S. households.

⁸ As noted herein, the processes and procedures to support this type of line sharing are essentially the same as those required to support line sharing by data-only CLECs. As a result, ILECs should be able to develop such procedures in the same time frame as that required by the FCC in the Line Sharing Order.

-- and invoking the Commission's Line Sharing Order to do so.⁹ Two current practices are especially damaging to the prospects for competition and must be ended by the Commission.

First, some ILECs have recently taken the position that they will disconnect a customer's xDSL service if the customer chooses to use a competing provider for voice service. In September 1999, an SBC customer in Texas, who had been using SBC's local voice service and xDSL service combined over a single, copper local loop, decided to switch his local voice service to AT&T. The customer placed his order to change his local voice service to AT&T, which forwarded it to SBC as an ordinary request for UNE-P local service. SBC filled the order, and the customer proceeded to use AT&T local voice service and SBC data service on the same line. Subsequently, however, the customer was contacted by SBC and informed that his xDSL service must be disconnected unless he switched his voice service back to SBC. Faced with this Hobson's choice, the customer -- who was an AT&T employee -- returned to SBC as his local voice provider.¹⁰ Subsequent calls to SBC have confirmed that this experience is not an isolated event; SBC will not provide its xDSL service to customers who decline to choose, or to keep, SBC as their voice carrier. The alleged excuse for this conduct is that the Line Sharing Order supposedly sanctions it.¹¹

⁹ The ILECs' obstructionist practices are all the more egregious in light of their representations to the Commission that "competitors have the same competitive options as incumbents -- because they are free to provide both analog voice and data services in combination." See Line Sharing Order ¶ 47.

¹⁰ Application of SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Texas, CC Docket 00-4, Opposition of AT&T Corp., Declaration of C. Michael Pfau and Julie S. Chambers ("Pfau/Chambers Decl.") Exhibit C at ¶ 29 (filed Jan. 31, 2000). The customer's ability to receive both AT&T local voice service and SBC xDSL service debunks any notion that there are technical reasons why the xDSL technology SBC has employed must be linked to the carrier that provides the voice service. Id. ¶ 30.

¹¹ See "Minutes From January 19th SBC 13-state OSS xDSL Plan of Record Collaborative Meeting - Arkansas, Kansas, Missouri, Oklahoma, Texas," at 21 (noting SBC's position that "FCC Line Sharing order specifically excludes UNE-P from line sharing requirements" in response to CLEC request to add xDSL capability to UNE-P), attached in relevant part as Exh. A.

Second, some ILECs have made it abundantly clear that they are unable and, in some cases, unwilling, to support xDSL capabilities and services which are essential to support advanced services competition from AT&T and other new entrants. For example, SBC has frustrated AT&T's attempts to cooperate with a data CLEC, IP Communications, Inc. ("IP Communications"), to provide an integrated bundle of voice and data services over a single copper loop using UNE-P in Texas. Specifically, SBC declined to provide IP Communications with any realistic procedures it could use to provision xDSL on a UNE-P line provided by another CLEC.¹² Then, when orders were submitted to attempt to add xDSL capability to an existing AT&T UNE-P line, SBC rejected them, with only the most cryptic of explanations.

Similarly, Bell Atlantic has attempted to evade meaningful discussions on how it might enable CLECs using UNE-P to add their own -- or a third party's -- xDSL service.¹³ For example, in a current New York State proceeding designed to address various xDSL issues (including line sharing), Bell Atlantic has yet to address adequately how it intends to facilitate efforts by CLECs, including AT&T, to add xDSL service to existing UNE-P arrangements in a

¹² Pfau/Chambers Decl. ¶¶ 36-40. SBC stated that in order to provide the services on a single loop (as SWBT does today), IP Communications would be required to (1) order a new loop for xDSL (instead of using the customer's existing loop), (2) submit a second order for an unbundled port to connect the back end of the splitter to the customer port, after which (3) SBC would disconnect the existing UNE-P line. This unwieldy process, of course, would entail significant expense and delay by imposing needless circuit rearrangements, and also create the risk of service disruption for the customer. Id. ¶ 38.

¹³ See Proceeding on the Motion of the Commission to Examine Issues Concerning the Provision of DSL Services, Case 00-0127, Bell Atlantic New York Letter to the New York "xDSL Collaborative" at 1 (dated January 10, 2000)("xDSL Collaborative")(responding to AT&T questions regarding xDSL-provisioning issues, Bell Atlantic took the position that "the xDSL collaborative should not become engaged at this time in an extended analysis of alternative scenarios that do not involve the sharing of a BA-NY POTS voice line by a data CLEC"), attached hereto as Exh. B.

non-disruptive and efficient manner and to migrate a customer to UNE-P who is obtaining xDSL service from Bell Atlantic or a data CLEC.¹⁴

Only in response to pressure from the New York Public Service Commission has Bell Atlantic indicated that it might allow a competitive voice provider to provide, by itself or in conjunction with a cooperating carrier, xDSL service over the existing loop without itself needing to collocate (for purposes of providing the voice service) or hot cut the loop over to its own switch. In making these comments, however, Bell Atlantic reserved all of its legal rights, insisted that once a splitter is introduced, the voice service being provided by the voice CLEC is technically no longer UNE-P, and contended that numerous OSS and other technical issues would make it difficult to effectuate a customer's ability to obtain xDSL and UNE-P service on the same line.

AT&T is encouraged by the fact that the Administrative Law Judge overseeing the collaborative effort in New York has tried to require Bell Atlantic to affirm that collocation by the voice provider and a hot cut will not be necessary in order for customers to receive UNE-P based voice service and xDSL, and has indicated that Bell Atlantic must develop "OSS and other

¹⁴ In response to several AT&T inquiries on how to add xDSL service to existing UNE-P or vice versa, Bell Atlantic initially suggested a method that would, as a practical matter, preclude AT&T (or its partner) from provisioning xDSL on a competitive provider's existing UNE-P line. See *id.* at 2-3 (Bell Atlantic response to Scenarios 2, 4 and 5). Specifically, Bell Atlantic's response appeared to indicate that a CLEC using UNE-P (or its affiliate) would be required to order a new loop and an unbundled port, after which Bell Atlantic would presumably disconnect the existing UNE-P line. *Id.* This would entail significant expense and delay and would also create the risk of service disruption for AT&T's customers, not to mention deny AT&T the ability to compete through use of UNE-P.

systems” needed to facilitate CLEC-to-CLEC line sharing.¹⁵ However, Commission clarification of this aspect of the Line Sharing Order is critical to ensure that ILECs, such as Bell Atlantic, deploy all arrangements and procedures necessary to enable CLECs using UNE-P to add their own -- or a cooperating carrier’s xDSL service -- on a full and fair basis. Absent such a clarification, ILECs can be expected to engage in the legal maneuvering, semantics, and technical excuses employed by Bell Atlantic in the New York proceeding to avoid facilitating line sharing where the voice service is provided through UNE-P.

SBC now claims that such competition-inhibiting practices are permitted, if not required, by the Commission’s Line Sharing Order. This, of course, is nonsense. As described below, the Commission’s decision to enable data CLECs to “line share” with ILECs when ILECs provide the voice service affords no colorable excuse for an ILEC to fail to cooperate with a voice CLEC that wishes to exercise its right to reasonable and nondiscriminatory access to UNE-P (including the right of their customers to enhance their UNE-P voice service through the addition of xDSL service).

II. THE COMMISSION SHOULD CLARIFY THAT NOTHING IN THE LINE SHARING ORDER PROHIBITS CLECS WHO USE UNE-P FROM ENJOYING THE SAME KINDS OF EFFICIENCIES THAT THE ORDER MAKES POSSIBLE FOR DATA-ONLY CLECS NOR PERMITS ILECS TO DENY THEIR XDSL SERVICES TO CUSTOMERS WHO OBTAIN VOICE SERVICE FROM A CLEC

The ILECs attempt to justify the anticompetitive practices described above by misreading -- and misapplying -- paragraph 72 of the Line Sharing Order, which states, “incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination

¹⁵ See xDSL Collaborative, Letter of Judge Stein to Active Parties dated January 20, 2000, attached hereto as Exh. C. The physical arrangements that ILECs must establish for a UNE-P CLEC are practically identical to those that an ILEC must establish when line sharing with itself (or an affiliate) or with a data CLEC. Such arrangements and procedures must be commercially viable by the time when the ILECs offers line sharing to its advanced services affiliate and to data-oriented CLECs pursuant to existing Commission orders (or the time it receives relief under section 271, whichever is earlier).

of network elements known as the platform. In that circumstance, the incumbent no longer is the voice provider to the customer.” Some ILECs have interpreted this language to mean that the Commission has determined that ILECs are not required to make any provision to enable customers of a CLEC-provided UNE-P voice service to obtain data service on the same line. This interpretation is obviously wrong. The Commission should promptly clarify that the ILEC efforts to implement this erroneous interpretation will not be tolerated.

The Line Sharing Order highlights the vital role competition is expected to play in deploying advanced telecommunications services to all Americans on a reasonable and timely basis. Line Sharing Order ¶ 5. The Commission justified its creation of the new line-sharing UNE on the basis of its conclusion that lack of access to the high-frequency portion of an ILEC’s local loop has several negative consequences on competition. First, it materially diminishes the CLECs’ ability to provide certain types of advanced services to residential and small business users; second, it delays broad facilities-based market entry; and third, it significantly limits the scope and quality of competitors’ service offerings. Id. ¶¶ 5-6, 25, 29. Accordingly, the Commission found that the creation of the new line-sharing UNE would “level the competitive playing field” and “enrich consumer choice” by enabling customers who receive voice services from an ILEC to choose a CLEC to provide advanced services without incurring the additional expense of a second line. Id. ¶¶ 20, 35. Nothing in these findings suggests that CLECs cannot provide customers the bundled voice and data services they increasingly demand by adding xDSL capabilities to the voice service provided over UNE-P.

At its core, the Line Sharing Order recognizes the inherent economic disadvantage CLECs must face if they are required to provide data services over a loop other than the one that

is used to provide voice service to the same consumer.¹⁶ This same economic disadvantage confronts carriers such as AT&T that wish to provide xDSL and voice services. An interpretation of the Line Sharing Order that denies AT&T the right to add xDSL to UNE-P would be contrary to the Commission's longstanding policy that its role is not to pick winners and losers, but, rather, to ensure that the marketplace is conducive to investment, innovation, and consumer choice.¹⁷

Although the Line Sharing Order clearly represents an effort to enhance competition by CLECs who choose not to offer voice services, there is no basis to construe the Line Sharing Order as a decision to deny "shared line" efficiencies to CLECs who want their customers to be able to obtain both voice and data services. To the contrary, the Commission explicitly recognized that competitive carriers are *entitled* to "obtain combinations of network elements and use those elements to provide circuit switched voice services as well as data services." Line Sharing Order ¶ 47. Moreover, the Commission expressly concluded that the new line-sharing UNE would not negatively impact the ability of CLECs to offer a full range of services, including both voice and data, over a single loop. Id. ¶ 57

The Line Sharing Order's requirements apply only to situations where the CLEC seeks to use a *portion* of an ILEC's loop when the ILEC provides voice services over the loop. This right necessarily presupposes that use of the loop is otherwise controlled by the ILEC and that the

¹⁶ Id. ¶¶ 38-40; see also id. ¶ 39 (The inability of a competitor to provide xDSL-based services over the same loop facilities that it uses to provide local voice services makes the provision of competitive xDSL-based services to customers that want a single line for both voice and data applications "not just marginally expensive, but *so prohibitively expensive that competitive LECs will not be able to provide such services on a sustained economic basis*") (emphasis added).

¹⁷ See, e.g., Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, Report at ¶ 5 (rel. Feb. 2, 1999); see also "Chairman Kennard Warns That Premature Bell Entry Into Long Distance Will Create Megamergers, Not Competition," remarks of Chairman Kennard, Legg Mason Telecom Investment Precursors Workshop, dated March 12, 1998 ("My agenda is . . . focused on competition . . . I don't pick winners. I don't pick losers. Instead, I make sure that the playing field is level and the goalposts are the same height and that the rules of the game keep up with changing times.")

efficiency to be shared is the efficiency of sharing the line with the ILEC's voice service.

Indeed, this is the significance of the language in paragraph 72 of the Line Sharing Order relied upon by the ILECs in their attempts to restrict competition from CLECs that use UNE-P. Thus, neither the language of that paragraph in particular, nor the Order as a whole, provides any basis for the conclusion that a CLEC using UNE-P should (or even may) be denied the same kinds of opportunities that the new line-sharing UNE makes possible for data-only carriers, *i.e.*, the unimpaired ability to provide the service (or services) the CLEC seeks to offer in the most efficient manner possible. Similarly, no language in the order that conditions the terms under which data-only CLECs may obtain the line sharing UNE has any application to the conditions that may apply to *other* CLECs who use *different* UNEs, e.g., the combination known as UNE-P.

There can be no doubt that ILECs are technically capable of providing the support CLECs need to provide xDSL and voice-based services over UNE-P. Market experience demonstrates that an ILEC can provision both data and voice services over a single copper loop when it wishes to do so for itself (or its data affiliate). Moreover, as demonstrated by AT&T's experience in Texas (where a customer temporarily received both AT&T UNE-P voice service and SBC xDSL service), the same physical arrangements would enable CLECs using UNE-P to take advantage of the same line sharing arrangements. In fact, SBC and Bell Atlantic essentially concede that there is no technical reason why providing both voice and data over the same loop that an ILEC currently does for itself, will soon do with its affiliate, and has been ordered to do with data CLECs, cannot also be done by a carrier using UNE-P, either by itself or with a cooperating carrier.

CLECs who obtain unbundled loops as network elements are clearly entitled to access the high-frequency portion of those loops to provide xDSL-based service in conjunction with their

own voice offering.¹⁸ There is no reason why CLECs should not be entitled to the same access to the full capability of the loop, including the ability to utilize the high-frequency portion of the loop for xDSL service when the loop is procured as part of the platform. However, ILECs are as yet unable (or unwilling) to provide and support nondiscriminatory operating procedures that would enable CLECs such as AT&T to use the UNE-P architecture to offer xDSL services to their voice customers, either themselves or through partnering arrangements.¹⁹ Given the current lack of such procedures, AT&T's theoretical "right" to the full use of its loop will be thwarted so long as ILECs continue their current practice of denying their xDSL service to customers who choose AT&T as their voice carrier. Accordingly, the Commission should promptly clarify that nothing in the Line Sharing Order permits ILECs to deny, or worse withdraw, their xDSL services to customers who obtain voice service from a CLEC, so long as the CLEC agrees to the use of its loop for that purpose.

III. THE ILEC INTERPRETATION IS ILLEGAL

The interpretation advocated by some of the ILECs is not only contrary to sound policy, it is patently illegal. Their interpretation that the Line Sharing Order sanctions their refusal to permit xDSL to be added to the UNE-P (or that it justifies withdrawal of service) is unlawful because:

- (1) An ILEC's denial of its xDSL offering to customers who obtain voice service from a CLEC that uses UNE-P violates section 251(c)(3);
- (2) This ILEC practice constitutes an unjust and unreasonable "penalty" on the exercise of consumer choice and is unjustly and unreasonably discriminatory in violation of section 201(b); and

¹⁸ See UNE Remand Order ¶¶ 171, 190-195; see also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15692, ¶¶ 258, 382 (1996) (subsequent history omitted). The Line Sharing Order implicitly recognizes this right, noting that section 251 requires ILECs to provide unbundled access to a network element where lack of access impairs the ability of the requesting carrier to provide the services that it seeks to offer. Line Sharing Order ¶¶ 31, 49.

¹⁹ To the extent that a CLEC seeks to enter into technically feasible, voluntary arrangements that advance the purposes of the Act, the ILEC must be required to provide the necessary support so that the local markets can be quickly opened to competition.

- (3) An ILEC's failure to provide and support fully functional and nondiscriminatory operational procedures that enable voice CLECs using UNE-P to offer xDSL capabilities on the same loop (either on their own or with others) constitutes unreasonable discrimination in the provisioning of loops and OSS, and violates both sections 251(c)(3) and 201(b).

Each of these matters is discussed below.

First, any attempt by an ILEC to deny its xDSL service to a customer who switches to a CLEC that uses UNE-P to provide voice service is unlawful under section 251(c)(3). This section requires that access to UNEs be provided on "rates, terms and conditions that are just, reasonable and nondiscriminatory."²⁰ A CLEC is not provided such access if the customers to whom it wishes to provide UNE-P-based voice service must discontinue -- or render themselves ineligible to receive -- xDSL service from the ILEC, particularly when that ILEC (due to its own hobbling of its competitors) is the only carrier able to provide such service.

Such conduct is closely analogous to an ILEC's use of excessive termination liabilities to restrict resale competition. Specifically, the Commission has held that, because the "imposition of [termination fees] creates additional costs for [an existing customer of an ILEC] that seeks service from a reseller, they may have the effect of insulating portions of the market from competition through resale," in which case "termination liability could constitute an unreasonable restriction on resale."²¹ Threats to terminate xDSL service to a customer who wants to switch to a competing provider of voice service can be an equally, if not more effective, deterrent than the imposition of a monetary penalty, and thus likewise restrictive of customer choice. This practice clearly "ha[s] the effect of insulating portions of the market from

²⁰ The Commission has consistently interpreted section 251(c)(3) to mean that ILECs must provide access to unbundled loops in a manner that promotes the rapid development of competition to the greatest number of consumers. UNE Remand Order ¶ 200; Local Competition Order ¶ 441. In doing so, the Commission has articulated its conviction that "greater, not fewer, options for procuring loops will facilitate entry by competitors," and that "Congress intended for competitors to have these options available." UNE Remand Order ¶ 200.

²¹ Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, CC Docket No. 99-295, FCC 99-404, at ¶ 389 (rel. Dec. 22, 1999).

competition” through UNEs. If ILECs are permitted to continue this practice, then customers who desire one-stop shopping for local voice and data services -- and, currently, in New York, long distance service -- would have only one alternative: the ILEC. This is the avowed purpose of the ILECs; indeed, SBC openly boasts about it.²²

Second, the Commission should clarify that an ILEC’s practice of denying its xDSL service to a customer who obtains voice service from a UNE-P CLEC, as well as its refusal to enable voice CLECs using UNE-P to add their own (or a cooperating carrier’s) xDSL capabilities, constitutes an “unjust” and “unreasonable practice,” and is thus unlawful under Section 201(b).²³ This practice is a clear attempt to leverage the ILEC’s market power in local voice and data services to maintain an unfair advantage over its “captive” subscribers by effectively bundling its xDSL service with its voice offering. The Commission previously has held that section 201(b) prohibits carriers from bundling services to constrain competition.²⁴ In particular, the Commission prohibited AT&T from bundling 800 services with other services until 800 numbers became portable.²⁵ In doing so, the Commission found that (prior to number portability) AT&T had a “unique ability to leverage its market power over ‘captive’ 800 subscribers” in a manner that could significantly impair interexchange competition.²⁶

²² SBC Chairman Edward Whitacre envisions that, once SBC’s \$6 billion retail xDSL strategy, known as “Project Pronto,” is completed, “only SBC will have all the pieces” needed to provide the range of services that consumers want and expect. SBC Communications, Inc., “SBC Launches \$6 Billion Initiative to Transform it Into America’s Largest Single Broadband Provider,” Press Release (Oct. 18, 1999).

²³ AT&T v. Iowa Utilities Board, 119 S.Ct. 721, 72, 729-731 (1999) (holding that section 201 applies to implementation of local-competition provisions). Moreover, xDSL service is, for the most part, an interstate access service, and thus directly subject to the Commission’s jurisdiction.

²⁴ Competition in the Interstate Interexchange Marketplace, Report and Order, 6 FCC Rcd 5880, 5904-06 (1991); Order, 6 FCC Rcd 7255 (CCB 1991); Memorandum Opinion and Order, 6 FCC Rcd 7569 (1991); Memorandum Opinion and Order, 7 FCC Rcd 2677, 2679-83 (1992); Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 2659 (1993); Second Report and Order, 8 FCC Rcd 3668 (1993); Memorandum Opinion and Order, 8 FCC Rcd 5046 (1993); Memorandum Opinion and Order on Reconsideration, 10 FCC Rcd 4562 (1995).

²⁵ Id.

²⁶ Competition in the Interstate Interexchange Marketplace, Memorandum Opinion and Order, 7 FCC Rcd at 2679-83.

Threatening to terminate xDSL service to a customer that wants to switch to a UNE-P CLEC is undoubtedly a more egregious abuse of market power. Unlike the bundling of 800 service, which was limited to a relatively small number of customers,²⁷ any ILEC attempt to deny its xDSL service to customers who switch to a UNE-P CLEC is a bald move to shut down competition in the voice market, especially for residential consumers. Moreover, an ILEC's failure to cooperate in maintaining xDSL service in conjunction with AT&T-provided voice service via UNE-P is an unjust and unreasonable "penalty" on the customer's exercise of consumer choice and is unjustly and unreasonably discriminatory in violation of section 201(b).

Third, an ILEC's failure to provide and support fully functional and nondiscriminatory operational procedures that enable CLECs who are employing a UNE-P architecture to provide voice services to offer xDSL capabilities, either on their own or with others, constitutes unreasonable discrimination in the provisioning of loops and OSS, which also violates Section 251(c)(3). All of the ILECs currently provide arrangements, facilities and support processes that enable them (or, later, their data affiliates) to provide xDSL services over a single loop to retail customers efficiently and without disruption. The physical arrangements that an ILEC must establish for a UNE-P CLEC are virtually identical to that which the ILEC would encounter when line sharing with itself (or an affiliate) or with a data CLEC. The record-keeping procedures that are required may vary, but the basic operational needs are the same.

Accordingly, the Commission must clarify that ILECs may not invoke the Line Sharing Order to restrict consumer choice by denying their xDSL services to customers who switch to a UNE-P CLEC or by refusing to enable voice CLECs using UNE-P to add their own (or a third party's) xDSL capabilities. The Commission should further affirm that ILEC cannot utilize the Line Sharing Order as a defense to CLECs' efforts to develop nondiscriminatory operational procedures enabling CLECs to employ a UNE-P architecture to provide both voice and xDSL

²⁷ Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd at 5906.

capabilities, either by themselves or through arrangements with other carriers. Finally, the Commission should affirm that nothing in the Line Sharing Order authorizes or compels ILECs (or their affiliates) to deny or withdraw their xDSL services to customers of a CLEC using UNE-P architecture.

IV. IN THE ALTERNATIVE, AT&T SEEKS RECONSIDERATION ON THIS ISSUE

For the reasons specified herein, AT&T believes that the Commission's Line Sharing Order makes clear that the creation of the new line-sharing UNE does *not* affect a CLEC's right to add xDSL functionality to the UNE Platform. Indeed, the Line Sharing Order explicitly recognizes that competitive carriers are entitled to obtain and use UNE combinations to provide voice and data services over a single loop. Line Sharing Order ¶ 47. Nevertheless, ILECs have invoked the Line Sharing Order to restrict consumer choice by denying their xDSL services to customers who switch to a UNE-P CLEC or by refusing to enable voice CLECs using UNE-P to add their own (or a partner's) xDSL capabilities. Thus, the ILECs' recent anticompetitive activity necessitates AT&T's request for clarification in this proceeding.

As a matter of procedural caution, AT&T requests, in the alternative, that, if the Commission is not prepared to clarify its Line Sharing Order in the manner requested, this aspect of the Line Sharing Order be reconsidered. For the reasons stated above, reconsideration is necessary to ensure that ILECs do not use their monopoly control over loop facilities to restrict competition in an unlawful manner.

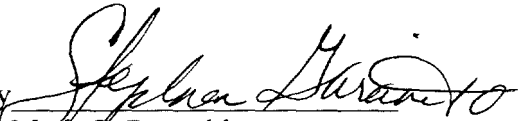
CONCLUSION

For the reasons set forth herein, the Commission should clarify, or in the alternative reconsider and modify, its Line Sharing Order as specified above. AT&T urges that these issues be resolved on an expedited basis.

Respectfully submitted,

AT&T CORP.

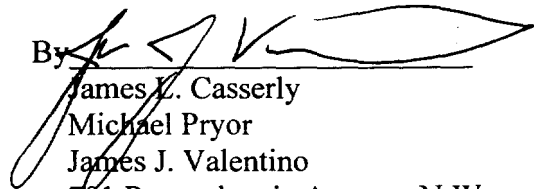
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February 9, 2000

CERTIFICATE OF SERVICE

I, Cathy M. Quarles, hereby certify that on the 9th day of February, 2000, I caused copies of the foregoing "PETITION OF AT&T CORP. FOR EXPEDITED CLARIFICATION OR, IN THE ALTERNATIVE, FOR RECONSIDERATION," to be served by hand delivery on the following:

Magalie Roman Salas, Secretary (original + 11)
Federal Communications Commission
The Portals - TW-A325
445 12th Street, S.W.
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International Transcription Service, Inc.
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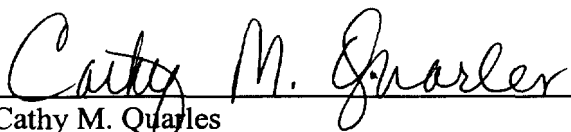

Cathy M. Quarles

EXHIBIT A

Accessible



"Minutes From January 19th SBC 13-State OSS xDSL Plan of Record Collaborative Meeting – Arkansas, Kansas, Missouri, Oklahoma, Texas"

Date: January 27, 2000

Number: **CLEC00-024**

Contact: Southwestern Bell Account Manager

Attached are the minutes from the SBC 13-State collaborative meeting held in Dallas last week on January 19th regarding SBC's OSS xDSL Plan of Record. These minutes were taken during the meeting as participants worked through the issue matrix. The minutes were then reviewed at the end of the meeting with the participating CLECs to ensure items were accurately reflected.

Also at the end of the January 19th meeting, a date was selected for a 2-day follow-up meeting to be held in Dallas on Tuesday and Wednesday February 1st and February 2nd. Meeting location will be in Dallas, Four Bell Plaza 5th Floor, Room 5. The meeting will be from 9am – 5pm both days.

Attachment

SBC/CLEC Collaborative Meeting
OSS xDSL Plan of Record
January 19, 2000

Minutes with
Synopsis of Issues by Category

The SBC/Ameritech xDSL OSS POR Collaborative Meeting was opened by Kevin Talbot of SBC at 3 Bell Plaza Auditorium, Dallas, Texas on January 19, 2000. After a Welcome and Introduction, Kevin (1) gave an overview of the Plan of Record (POR) process, (2) noted the filing of the POR, (3) explained the CLEC POR response process, and (4) the requirements for submission of collaborative results to the FCC on Feb 7.

The meeting then discussed the Issues provided to the POR by the CLECs. Since there were a multitude of issues submitted by the CLECs who responded in writing, for purposes of simplification, SBC categorized them in to discussion topics. Attached are the issues raised by the CLECs by topic. Parties began to work through the Issues Matrix by topic. The following are comments made during those discussions by topic. Below each matrix of issues are the comments (minutes) that were made by the CLECs and SBC.

Standard Intervals

CLEC Comment	SBC Response	Status
<ul style="list-style-type: none">• Request standard interval implementation timeline.	<ul style="list-style-type: none">• Standard intervals are currently available in SBC's 13-state generic offering.	Resolved
<ul style="list-style-type: none">• Request standard intervals be provided in POR.	<ul style="list-style-type: none">• This issue is outside of the scope of the POR. Individual CLECs standard intervals are based on individual interconnection agreements.	Resolved
<ul style="list-style-type: none">• Request that standard interval be based upon the receipt of a complete and valid LSR.	<ul style="list-style-type: none">• Standard intervals are based upon the receipt of a complete and valid LSR.	Open
<ul style="list-style-type: none">• Question whether standard provisioning intervals for CLECs will be in parity with those provided to SBC's affiliates	<ul style="list-style-type: none">• This issue is outside of the scope of the POR. SBC offers the same standard provisioning intervals to all CLECs including its affiliates.	Resolved

**SBC/CLEC Collaborative Meeting
OSS xDSL Plan of Record
January 19, 2000**

**Minutes with
Synopsis of Issues by Category**

Line Sharing

CLEC Comment	SBC Response	Status
<ul style="list-style-type: none">Request that POR include detailed processes for line sharing.	<ul style="list-style-type: none">SBC will comply with the line sharing order including the required timeframes. It is anticipated that the line sharing processes will be similar to the DSL capable loop processes in that an LSR will be utilized for ordering. The loop makeup information that we provide for other technologies will support this offering. Line sharing processes are in development stages and are subject to change based on what is learned during the line sharing trial. CLECs will be advised through existing notification procedures.	Open

SBC: Details are still being worked. Will include TN and a LSR. The POR collaborative timeframe will end prior to the time line sharing trial completes, therefore specific details will not be included in the POR.

CLEC: How will the results of the trial be documented?

SBC: SBC is suggesting that a joint write-up be done by SBC and CLECs and then posted on SBC's web sites.

CLEC: Suggest that line sharing trial results be incorporated in the xDSL POR.

SBC: There is still an overriding timing issue. POR collaborative ends 2/7/00, while line sharing trial is still continuing.

**SBC/CLEC Collaborative Meeting
OSS xDSL Plan of Record
January 19, 2000**

**Minutes with
Synopsis of Issues by Category**

CLEC: Why don't we benefit from SBC's subsidiary's experience with line sharing?

SBC: Ameritech does not do true line sharing ordered via LSR.

(At this point--due to time constraints--the meeting was adjourned; see below for information on follow on meetings.)

Miscellaneous (Test, CMP, UNE-P)

CLEC Comment	SBC Response	Status
<ul style="list-style-type: none">• Request access to loop provisioning test results prior to cooperative testing	<ul style="list-style-type: none">• This issue is outside of the scope of the POR.	Open
<ul style="list-style-type: none">• Request that we use Change Management Process (CMP) for rollout of new capabilities and software changes	<ul style="list-style-type: none">• SBC agrees to use the 13-state CMP, which is currently under development.	Resolved
<ul style="list-style-type: none">• Request to add DSL capability to UNE-P for line sharing	<ul style="list-style-type: none">• This is outside of the scope of the POR. FCC Line Sharing order specifically excludes UNE-P from line sharing requirements.	Open
<ul style="list-style-type: none">• POR does not include conducting a set of ordering workshops over the 13-state area	<ul style="list-style-type: none">• This issue is outside of the scope of the POR.	Resolved

SBC/CLEC Collaborative Meeting
OSS xDSL Plan of Record
January 19, 2000

Minutes with
Synopsis of Issues by Category

Inventory

CLEC Comment	SBC Response	Status
<ul style="list-style-type: none">Request knowledge of legacy system where data is derived.	<ul style="list-style-type: none">Loop makeup data is generally found in assignment and engineering systems (such as LFACS and ARES), however the information available in legacy systems and the specific legacy systems vary by SBC region. SBC needs further clarification of the business need for this request.	Open

DLR Process

CLEC Comment	SBC Response	Status
<ul style="list-style-type: none">Request DLR prior to placing an order.	<ul style="list-style-type: none">DLR for actual loop does not exist until order is being provisioned.	Open
<ul style="list-style-type: none">Request to know what data will be contained in DLR.	<ul style="list-style-type: none">SBC will add a list of the data fields for a DLR or a DLR-like record to its CLEC web sites.	Resolved

EXHIBIT B

To: xDSL Collaborative

From: BA-NY

Date: January 10, 2000

Re: BA-NY's Responses to AT&T's ten "Scenario" questions regarding joint xDSL-provisioning issues.

Without debating (or waiving its position as to) whether any of the scenarios listed below fall within the definition of "Line Sharing" that the FCC set forth in its recent Line Sharing Order, BA-NY is providing the following initial responses to the scenario issues related to the potential development of new service offerings and/or processes for xDSL services. Initially, it is BA-NY's position that the positioning of a data element between a loop and a port in the scenarios described below is not a platform offering.¹

Furthermore, as we stated at the recent xDSL meeting, it is BA-NY's position that the xDSL collaborative should not become engaged at this time in an extended analysis of alternative scenarios that do not involve the sharing of a BA-NY POTS voice line by a data CLEC. While such analyses may be appropriate later, collaborative efforts should be focused on the outstanding issues related to the provisioning of xDSL unbundled loop services and the recent FCC requirement that BA-NY share lines over which it is providing voice services with data CLECs. BA-NY's responses to the ten scenario questions² are as follows:

¹ All responses assume that any necessary system/business rule changes have been implemented through the appropriate service development and/or change control processes.

² AT&T asked BA-NY "whether and how BA-NY would provision either voice or xDSL services under the following scenarios" As indicated above, BA-NY is willing to have

Scenario 1

A customer, served by BA-NY for voice and by a data CLEC ("DCLEC") for xDSL data, wishes to convert the voice circuit to a voice CLEC ("VCLEC") provisioning under UNE-P. Will BA-NY allow the customer to migrate his voice service with no disruption to the customer's data service? Assume the VCLEC and DCLEC are amenable and have functioning working relations and processes.

Response: BA-NY assumes that the question refers to a situation where such a migration will occur post line sharing. BA-NY will convert the existing BA-NY voice service to a UNE loop (prequalified as xDSL compatible) and port without disrupting the data service. This assumes that "no disruption to the customer's data service" is intended to mean that a physical disconnect to the data service will not be required.

Scenario 2

A BA-NY Infospeed customer obtaining both voice and data from BA-NY wishes to convert both voice and data to a CLEC using UNE-P for voice and self providing xDSL through a collocated facility. What procedures does BA-NY propose to migrate such a customer?

Response: After prequalifying the loop as suitable for the DCLEC's data service, using existing prequalification processes, it is anticipated that the CLEC would initiate a LSR to provision a UNE loop (xDSL qualified) and a UNE port to the CLEC's collocation arrangement. The CLEC can then add its data service to the prequalified loop.

Scenario 3

discussions in the future about whether it would be able to provision all or part of the ten scenarios.

A customer has voice and data from a CLEC as per Scenario 2 and wishes to migrate the data to another DCLEC but keeping the voice with the original VCLEC. What procedures does BA-NY propose to offer to transition this service?

Response: Depending on the physical arrangements utilized by each of the CLECs involved, this scenario may be implemented without BA-NY's direct involvement. To the extent CLECs need to obtain facilities between collocation arrangements to facilitate this scenario, they could utilize BA-NY's DTS or DCS offerings.

Scenario 4

A customer with voice only service managed by a VCLEC using UNE-P wishes to add xDSL data. The VCLEC is prepared to offer the service through its own collocated facility. How would BA-NY provision this?

Response: Same as Scenario No. 2.

Scenario 5

A VCLEC UNE-P customer wishes to add xDSL data and the VCLEC has a working arrangement with a collocated DCLEC. How does BA-NY propose to provision?

Response: Same as Scenarios Nos. 2 and 4.

Scenario 6

A BA-NY voice and data Infospeed customer wishes to convert its voice service to a VCLEC using UNE-P. Will the BA-NY affiliate continue to provide data service? What procedures does BA-NY propose for effectuating such customer transfers?

Response: BA-NY will treat its data affiliate like all other CLECs. To the extent that the BA-NY data affiliate has made a business decision to "partner" with a VCLEC, the same processes will be used for all scenarios discussed.

Scenario 7

Same as Scenario 6 but assume that either as a matter of policy or in the particular instance (e.g., credit worthiness) the BA-NY affiliate declines to continue to provide data service. What procedure does BA-NY contemplate for transferring the customer's xDSL data line to another carrier prepared to provide it so as to continue an integrated voice/data offering?

Response: If the data affiliate decides to discontinue service to the end user customer (e.g., for credit worthiness), the end user customer will have the opportunity to transfer its xDSL service to another DCLEC.

Scenario 8

A BA-NY Infospeed customer wishes to migrate both its voice and its data to a collocated CLEC prepared to offer service using unbundled local loops. Please describe with specificity the pre-order, order and provisioning processes to seamlessly transfer the customer's service.

Response: It is anticipated that once the CLEC has prequalified the loop for xDSL, the CLEC would initiate the appropriate LSR to have the UNE loop provisioned to its collocation arrangement using the same processes with the necessary modifications, if any, that are in effect today to convert an existing BA-NY voice service to a UNE loop. The Infospeed service will be handled consistent with the processes described in Scenarios 6 and 7 above.

Scenario 9

A customer with BA-NY voice service wishes to migrate to an integrated VCLEC/DCLEC using UNE loops and to obtain both voice and xDSL data from the CLEC. Please describe with specificity the pre-order, order and provisioning processes for effectuating this migration.

Response: After prequalifying the loop as xDSL compatible, the existing BA-NY voice service will be converted to UNE loop using the same processes that are used today. The CLEC can then add its data capability to the xDSL qualified loop.

Scenario 10

A customer receiving special access service that is provisioned by BA-NY using xDSL wants (and is entitled to) convert the circuit to a UNE loop and to provide local service over it. Please describe how such loops will be converted?

Response: BA-NY does not offer the special access service described in this scenario.

* * * * *

On January 7, 2000, BA-NY received additional scenario questions from AT&T. BA-NY is in the process of reviewing these requests. We note that a number of these requests are significantly more complex than AT&T's first set. In addition, a number of these requests are about scenarios that involve BA-NY provisioning of end-to-end access to end user customers, as well as BA-NY's relationship with ISPs, which are unregulated entities. Accordingly, these requests may go beyond the scope of the current Collaborative. BA-NY will respond to these requests as soon as possible.

EXHIBIT C

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

MAUREEN O. HELMER
Chairman
THOMAS J. DUNLEAVY
JAMES D. BENNETT
LEONARD A. WEISS
NEAL N. GALVIN



LAWRENCE G. MALONE
General Counsel

DEBRA RENNER
Acting Secretary

January 20, 2000

To Active Parties
Re: Case 00-C-0127

This letter is intended to summarize some of the understandings reached at yesterday's collaborative meeting, and to list the parties' respective deliverables for the interim until our next meeting. The next meeting of the collaborative will be held at the offices of the Commission in New York City, One Penn Plaza, eighth floor boardroom, commencing at 10:00 A.M., on Wednesday, February 2, 2000.

The first deliverables are mine and Staff's: I have spoken to Albany Reporting, which produces the stenographic record of Public Service Commission sessions. Parties interested in obtaining via e-mail the Commission discussion of the staff report on the status of this collaborative may obtain pages 14 through 22 of the transcript of the PSC session held January 12, 2000, by e-mailing Dawn at Albany Reporting, at albanyreporting@mindspring.com. There is a charge for this service.

In addition, I expect a notice to be issued and posted on the PSC Web site (www.dps.state.ny.us) tomorrow establishing a brief comment and reply period for the Bell Atlantic-NY tariff filed December 20, 1999 establishing a surrogate line sharing discount charge for certain unbundled loops used to provide advanced services.

I expect that comments will be due in hand no later than January 27, 2000, and that Bell Atlantic-NY's reply will be due no later than noon, January 31, 2000. Because there is as yet no formal active party list established in this proceeding, I suggest parties use the e-mail list to serve copies of comments and replies. The usual filing methods apply, of course, to filing at the Office of the Secretary of the Commission. Further, I also expect the order to be issued shortly instituting this proceeding; a draft active party list will be circulated to you upon issuance, and posted on the Commission's Web site.

As to the rest:

- . With respect to the discussion of provisioning new xDSL-capable loops, Covad, NorthPoint, Rhythms, and NAS each agreed to take and test 10 intelligent demarks. Regarding loop acceptance parameters, there was continued disagreement. Parties agreed to refer to industry standards and re-raise at the next meeting
- . Parties will review the Bell Atlantic-NY workplan and discuss it at the next meeting; questions for information/clarification can be e-mailed to Tom McCarroll before the meeting.
- . With respect to loop qualification, the CLECs responded to Bell Atlantic-NY in two documents; parties will review those documents and discuss the proposals off-line, with the view to resolving, or narrowing issues to be presented to the Commission, at the next meeting.
- . In regard to the ability of the line-sharing working groups to stick to their adopted schedule and scope, John White pointed out that some data CLEC participants have not yet provided technical specifications of equipment to be used, and that this can lead to delay or narrow the scope of the provisioning. NorthPoint agreed to provide Bell Atlantic-NY immediately with the detailed information.
- . As to the discussion to clarify the Bell Atlantic-NY response to the AT&T 10 scenarios document, let me summarize--however inelegantly-- the point as to which all parties agreed and which, in my view, actually was clarified. When a competitive voice provider's customer chooses to order DSL data service from a DSL provider over its existing loop, Bell Atlantic-NY will not require the competitive voice provider to itself collocate or hot-cut the voice portion of the loop in order to continue providing voice service. It was also agreed that the specifics of OSS and other systems necessary to maximize interchangeability of services and providers would best be working through concretely, in the line-sharing work effort and in particular, in the effort commencing in March 2000 to examine these alternatives.

ELEANOR STEIN
Administration Law Judge